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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, March 21, 2017
85th Legislature, Number 36
The House convenes at 10 a.m.

Three bills are on the daily calendar for second reading consideration today. The table of contents appears on the following page.

The following House committees were scheduled to hold public hearings: Environmental Regulation in Room E1.026 at 8 a.m.; Insurance in Room E2.016 at 8 a.m.; Public Health in Room E2.012 at 8 a.m.; Homeland Security and Public Safety in Room E2.014 at 8 a.m.; Public Education in Room E2.036 at noon or on adjournment; Investments and Financial Services in Room E2.010 at 2 p.m. or on adjournment; Judiciary and Civil Jurisprudence in Room E2.026 at 2 p.m. or on adjournment; and Culture, Recreation and Tourism in Room E1.010 at 2 p.m. or on adjournment.

The following Senate committees were scheduled to hold public hearings: Business and Commerce in Room E1.016 at 8 a.m.; Education in Room E1.028 at 9 a.m.; Natural Resources and Economic Development in Room E1.012 at 9 a.m.; and Criminal Justice in Room E1.016 at 1:30 p.m. or on adjournment.



Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, March 21, 2017

85th Legislature, Number 36

HB 101 by Craddick	Allowing certain municipalities to contract for reclaimed water facilities	1
HB 641 by Phillips	Continuing the Red River Boundary Commission	4
HB 1257 by Kacal	Making impairment of dams and flood control structures a state-jail felony	6

SUBJECT: Allowing certain municipalities to contract for reclaimed water facilities

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio,
Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — John Ohnemiller and Courtney Sharp, City of Midland; Ben Shepperd, Permian Basin Petroleum Association; Mark Berg, Pioneer Natural Resources; (*Registered, but did not testify*: Teddy Carter, Devon Energy; Charlie Schnabel, Manville Water Supply Corporation; Lindsey Miller, Texas Independent Producers and Royalty Owners Association; Cory Pomeroy, Texas Oil and Gas Association)

Against — None

On — (*Registered, but did not testify*: Perry Fowler, Texas Water Infrastructure Network)

DIGEST: HB 101 would authorize certain municipalities to enter into a contract with any person to design, construct, or reconstruct a reclaimed water facility with a capacity of at least 10 million gallons per day. The bill would apply to a home-rule municipality meeting certain population requirements (Midland).

The contract could be payable from a pledge of the revenues of the water, sewer, or combined system of the municipality or as an operating expense of that system. It would not be payable from property tax revenues.

The contract would be subject to certain regulations under Local Government Code, ch. 271, subch. I for the adjudication of claims arising under contracts regarding the sale of reclaimed water for industrial use.

HB 101 would apply to a contract entered into before the effective date of the bill. The contract would remain valid if the municipality's population changed after entering into the contract.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 101 would grant legislative approval to an agreement between the city of Midland and Pioneer Natural Resources to help update the city's water treatment infrastructure, conserve fresh water, and support economic development at no cost to taxpayers. It is a local economic development bill that would facilitate an historic public-private partnership for Midland.

Under the contract, Pioneer would invest \$110 million to upgrade Midland's aging wastewater treatment plant to Texas Commission on Environmental Quality standards. In exchange, Pioneer could purchase treated water at a discounted rate, providing Midland up to \$2.5 million annually. Pioneer also would build a pipeline from the treatment plant to its facilities, which would reduce truck traffic in the region.

The bill would help conserve water resources. Pioneer could shift from using 70 percent fresh water for its hydraulic fracturing operations to a much smaller amount, saving millions of gallons of fresh water and making fracking activity more water-neutral. The city's wastewater has been unused and a liability, so the contract would cut disposal costs, and some wastewater still would be available for other uses, such as irrigation.

The contract would bring economic development to the region and support energy independence for the county without an increase in taxes or debt. Enactment of the bill would embrace the booming oil and gas industry in the Permian Basin and encourage similar public-private partnerships.

Legislative approval for this bill would help provide certainty that the city's capital investments were protected.

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OPPONENTS
SAY:

While the deal approved by HB 101 would reduce the use of fresh water for fracking, it would not do enough to be water-neutral. It also could reduce the amount of reclaimed water available for other purposes, such as irrigation. The bill is unnecessary, as cities may enter into contracts with private entities without legislative approval.

NOTES:

An identical companion bill, SB 675 by Seliger, was referred to the Senate Agriculture, Water, and Rural Affairs Committee on February 15.

SUBJECT: Continuing the Red River Boundary Commission

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — Mike Rickman, North Texas Municipal Water District;
(*Registered, but did not testify:* Charlie Schnabel, Manville Water Supply Corporation)

Against — None

BACKGROUND: In 1999, Oklahoma and Texas entered into the Red River Boundary Compact, established by Natural Resources Code, ch. 12 to define the boundary between the two states along the Red River. Ch. 12 also authorized the Red River Boundary Commission to resolve boundary disputes in the Texoma border area.

In 2000, the Texoma Area Boundary Agreement established the Texas-Oklahoma border, and the Red River Commission was terminated.

In 2013, after questions were raised about whether the new boundary along Lake Texoma had been drawn incorrectly, the 83rd Legislature enacted HB 3212 by Phillips to negotiate and redraw the boundary in the Texoma area by recreating the Red River Boundary Commission. The commission is set to expire on December 31, 2017.

DIGEST: HB 641 would continue the Red River Boundary Commission through 2021 and require the commission to issue a final report on the status of the Texoma boundary area by July 30, 2021.

This bill would take immediate effect if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 641 would continue negotiations to correct the 2000 redrawing of the Texas-Oklahoma border that inadvertently left pump stations built by the North Texas Municipal Water District on the Oklahoma side of Lake Texoma. A four-year extension of the Red River Commission is needed because the border cannot be changed unless both states agree on an interstate compact that gains congressional approval.

Correcting the border to relocate the water district's pump stations in Texas would give the district unfettered access to a substantial portion of the water available to it without the risk of violating federal law. Although Texas has reached terms with Oklahoma to allow the district to operate its pump stations across the border, the presence of zebra mussels in Lake Texoma complicates the transfer of water. The federal Lacey Act prohibits interstate movement of invasive or endangered species, including zebra mussels, which has required the district to obtain special permission from Congress to pump water from Oklahoma to Texas. The North Texas Municipal Water District serves more than 1.6 million people, and the affected water represents 28 percent of its available supply. HB 641 would solve this issue for the long term, allowing the district to freely pump its water entirely within Texas and eliminating the need to seek congressional approval.

The district also is building a \$300 million pipeline system to move water from Lake Texoma and filter out the zebra mussels before the water is piped to its destination, which is a significant investment in taxpayer money. A border correction would protect this investment and ensure that the district could continue pumping water from its Lake Texoma facility.

The border negotiations advocated by the Red River Commission would not cause Texas or Oklahoma to gain or lose water or territory. The net exchange between the states is expected to be zero.

**OPPONENTS
SAY:**

No apparent opposition.

SUBJECT: Making impairment of dams and flood control structures a state-jail felony

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — (*Registered, but did not testify:* Donna Warndof, Harris County Flood Control District; Bill Lauderback, Lower Colorado River Authority; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association)

Against — None

BACKGROUND: Under Penal Code, sec. 28.03(b)(4), acts of criminal mischief that are a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) include:

- an act resulting in the financial loss of \$2,500 or more but less than \$30,000; and
- an act resulting in the financial loss of less than \$30,000 that impairs or interrupts public communications, public transportation, public gas or power supply, or other public services.

DIGEST: HB 1257 would add to the list of criminal mischief acts that are state-jail felonies those acts that impair or interrupt property used for flood control purposes or a dam and result in the financial loss of less than \$30,000.

This bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY: HB 1257 would clarify the proper punishment for intentionally impairing or interrupting dams and flood control structures. Penal Code, sec. 28.03(b)(4) lists intentionally or knowingly impairing or interrupting

public services as a state-jail felony, but it is not clear that impairing dams falls under impairing public services.

Under current law, crimes such as pouring concrete into a dam structure or stealing a water valve may be deemed a misdemeanor because the cost of actual repairs to the dam or flood control structure do not reach \$2,500. Because a malfunctioning dam or flood control structure could result in losses far greater than \$2,500, the act of impairing these structures should be punished as a state-jail felony.

Impairing dams and flood control structures could lead to serious consequences, including millions of dollars in property damage and loss of life. Many commercial and residential developments downstream from dams and flood control structures could be severely impacted from a breached dam. Broken dams in rural areas could cause flooding of farm and ranch land, leading to lost crops and livestock, as well as the flooding of homes. HB 1257 would penalize individuals who could cause serious harm and would deter others by making it clear that impairing a dam or flood control structure was a state-jail felony.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

An identical companion bill, SB 903 by Birdwell, was referred to the Senate Committee on Criminal Justice on February 28.